

UNITED STATES DISTRICT COURT

for the
Western District of Pennsylvania

AARON FARROW

Petitioner

v.

USA

*Respondent**(name of warden or authorized person having custody of petitioner)*

Case No. 2:20-cv-329

(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Aaron Farrow
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Federal Correctional Institution Loretto
(b) Address: P.O. Box 1000, Loretto, PA 15940
(c) Your identification number: 32616-068
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 If you are currently serving a sentence, provide:
 (a) Name and location of court that sentenced you: U.S. District Court for the Western District of Pennsylvania
 (b) Docket number of criminal case: 10-224-02-CR
 (c) Date of sentencing: 06/12/2013
☐ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (*explain*): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: U.S. District Court for the Western District of Pennsylvania

(b) Docket number, case number, or opinion number: 10-224-02-CR

(c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):

Federal Bureau of Prisons' (BOP) calculation of time to be served, which did not include credit of 19 months for federal presentence time served, and 8 months credit for concurrent federal time to that of the state sentence now fully served

(d) Date of the decision or action: 06/12/2013

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Federal BOP, DCI Loretto

(2) Date of filing: 06/18/2018

(3) Docket number, case number, or opinion number: 944500RK2 (Exhibit A)

(4) Result: Request Denies (Exhibit B)

(5) Date of result: 07/16/2018

(6) Issues raised: Request to have time spent in U.S. Marshal custody credited toward time remaining on the federal sentence, as ordered by the federal judge at sentencing on 06/12/2013 (Exhibit C & D).

(b) If you answered "No," explain why you did not appeal:

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Federal BOP, FCI Loretto

(2) Date of filing: 07/24/2018

(3) Docket number, case number, or opinion number: 944500RK2 (Exhibit E)

(4) Result: Partially granted, BP-10 forwarded to DSCC for review and determination (Exhibit F)

(5) Date of result: 09/14/2018

(6) Issues raised: Appealing denial of request for time credit re: 19 months of time served in U.S. Marshal custody prior to sentencing. FCI Loretto granted the request in part (Exhibit F). DSCC review reversed the grant and denied the request (Exhibit G).

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____
- _____
- _____
- _____
- _____
- _____
- _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes

☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☐ No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____
- _____
- _____
- _____
- _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____

- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: At federal sentencing defendant Farrow was awarded credit for presentencing time served in federal U.S. Marshal custody, which was 19 months (Exhibit C & D).

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Aaron Farrow was arrested on 09/15/10 by the Allegheny County Police. He was indicted federally on 11/17/10 and sentenced federally on 06/12/13 (Exhibit C), and by the state on 06/17/13 (Exhibit H). Of the 33 months he was held in custody prior to federal sentencing, 19 of those months was in federal custody (Exhibit D). He should have received credit for these 19 months of time served in federal custody. He was not credited for these 19 months on his state sentence either, for which he served the full state minimum of 71 months from 09/15/10 to 03/07/19 (90 months of time served from the state arrest date to release from state custody, less the 19 months).

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: Judge Flowers Conti imposed an 8 month concurrent federal sentence to that of the state sentence, at Farrow's federal sentencing on 06/12/13 (Exhibit C).

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Judge Flowers Conti sentenced Farrow to a term of 70 months to be served in federal custody (Exhibit C). Of that sentence, 8 months of the term of imprisonment "shall be concurrently served with any sentence imposed with respect to the defendant's [] state court charges." (Exhibit C). Farrow's 70 month federal sentence was therefore to be 62 months of time of actual federal custody.

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: The Federal BOP at FCI Loretto, has not awarded Farrow credit for either the 19 months in federal Marshal custody prior to his federal sentencing, or the 8 month concurrent federal sentence to that of the state sentence (Exhibit C, D, H, and I).

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

The BOP has calculated Farrow's release date as: 01/06/24 for the full term of his sentence, and 04/07/23 for the statutory release date (Exhibit I). These dates give no credit for the 19 months of Marshal custody time served, or the 8 months concurrent sentence with the state sentence for which he served the full state minimum. If this credit were awarded to Farrow, his release dates should be: 10/06/21 for the full term of his sentence, plus credit for good time (GCT) at 54 days per year, making his potential release date on or about 05/06/21. Or, 01/07/21 for his statutory release date, plus GCT at 54 days per year, making his potential release date on or about 08/07/20.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☐ No

GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: The Court should order the BOP to recompute Aaron Farrow's release dates, following Judge Conti's sentencing, and award Farrow credit for the 19 months presentencing time he served in U.S. Marshal custody which has not yet been credited to him either at the state or federal level, as well as the credit for the 8 month concurrent term Farrow served while completing his state sentence (Exhibit C). This computation should give Farrow a new release date of 08/07/20. with the home detention eligibility of 02/07/2020.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 3/4/20

Signature of Petitioner

Stanley W. Greenfield

Signature of Attorney or other authorized person, if any